

Speaking out or remaining silent in humanitarian work

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The question of whether — and if so, to what extent — a humanitarian organization should publicize and denounce violations of international humanitarian law and other wrongs, and name those responsible for them, is as acute as ever — particularly for the ICRC, as the examples given by Michael Ignatieff in *Hard Choices*¹ or by Jonathan Benthall in *Disasters, Relief and the Media*² show. There are reasons for this, and an attempt must be made to explain them. From time to time public or published statements by the ICRC also dominate the political arena. While unintentionally becoming caught up in the cut and thrust of political debate, they also show how the ICRC operates in the complex world of tension between political interests and humanitarian concerns. Hence the subject may also give an unusual insight into the work of the ICRC and the conditions under which it is carried out.

Specificity of the ICRC

The ICRC is one of many humanitarian organizations, which differ greatly from each other in terms of how they operate and where they are deployed. The sharp increase in such organizations is part of the changing humanitarian environment of recent times. However, the ICRC, with around 12,000 staff — more than 11,000 of whom are out in the field in areas of armed conflict or tension and elsewhere — is a large organization with a number of specific features.

In the international humanitarian law treaties the various States have expressly assigned certain tasks to the ICRC, either exclusively or together with other unspecified humanitarian organizations. Though not an international organization in the same way as the Office of the UN High Commissioner for Refugees, for example, it is therefore less free in terms of what it may or may not do than a non-governmental organization.

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The ICRC performs its core mandate, namely to protect and assist the victims of armed conflicts and internal disturbances, worldwide; it confines itself neither to selected geographic areas nor to specific categories of people. In the age of global communication, this means that what it does, the image it projects of itself — and especially what it says in public — in one place becomes known almost immediately everywhere else it is working. This limits the scope for a communication approach which is tailored to the local environment and possibly to particular attitudes, and is essentially pragmatic.

Characteristic of the ICRC are its absolute commitment to remaining in close proximity to the victims of armed conflict and its unremitting pursuit of that goal. It seeks above all to gain access to the victims of armed conflict and internal violence in order to protect and help them. All other considerations — with the exception of security — are strictly subordinated to this goal. To achieve it, the ICRC must ensure that its presence and its activities in the conflict area are accepted by all parties with any influence on the hostilities and their consequences in humanitarian terms. Only by so doing can it continue to perform its mandate worldwide. Despite its difficulties in gaining access to certain areas, for which there are various reasons, the ICRC continues to enjoy very wide acceptance and what may well be unique access to areas of conflict.

The ICRC's operational environment

The environment in which the ICRC operates — the war zones and flashpoints of the world — has changed drastically in recent years. It is important for the subject, too, to bear this point in mind. Many of these “new” conflicts, most of which are civil wars, are characterized by a disregard for the rules and by belligerents who are as hard to comprehend as they are to contact. “In a civil war,” wrote H. M. Enzensberger in 1993, “every abstract and rationally complex justification for the use of force evaporates.”³ He was thinking mainly of the Balkans, but the phenomenon is unfortunately more widespread than that. Also the private warlords who had disappeared from Europe since the seventeenth century are now emerging again in many conflict areas as State structures there collapse.⁴ Wallenstein's succession arrange-

¹ Michael Ignatieff, “The stories we tell: Television and humanitarian aid”, in: Jonathan Moore (ed.), *Hard Choices: Moral Dilemmas in Humanitarian Intervention*, Rowman & Littlefield Publishers, Boston, 1998, pp. 287-302.

² Jonathan Benthall, *Disasters, Relief and the Media*, I. B. Tauris & Co Ltd, London/New York, 1993.

³ Hans Magnus Enzensberger, *Aussichten auf den Bürgerkrieg*, Suhrkamp, Frankfurt am Main, 1993, p.20.

⁴ See Herfried Münkler, *Die Neuen Kriege*, 6th edition, Rowohlt Verlag GmbH, Reinbek bei Hamburg, 2003, especially pp. 59 ff.

ment seems to be simpler than Schiller's. It is extremely difficult to fit the complex situations of today's conflicts into the categories laid down in international humanitarian law. Whereas the existing law is based on nationality, membership of an ethnic group is playing an ever more important part.

Features of modern-day conflicts

Among the main characteristics of the conflicts in connection with which the ICRC today works are:

- the lack of clarity regarding the situation in combat zones;
- the trend toward polarization and radicalization that run along a number of worldwide fault lines;
- the civil wars that for many years have characterized armed conflict around the globe;
- globalization and the accompanying deregulation, which has brought not only the well-known benefits but has also increased the scope for action by non-State armed groups;
- the failed, or failing, States that no longer have a central government capable of exerting its authority or providing the basic services needed for the population's well-being;
- the global "war" against terrorism;
- growing difficulty in gaining access to those affected by armed conflict;
- the increased risk of humanitarian aid being misused, or rejected outright;
- the growing threat to the safety of field staff working for humanitarian organizations;
- the double standards applied to comparable situations.

None of this is new. However, the dimensions that terrorism — and the response to terrorism — have taken on, as well as the increasing prominence of non-State armed groups, are for me relatively new phenomena.

Various causes of conflict

Today's conflicts are for the most part characterized by their causes. The major causes of conflict have been and remain:

- the drive by groups and individuals for political and economic power;
- failed and failing States that are no longer able to maintain law and order;
- the struggle for access to raw materials;
- poverty and social distress, often in the context of collapsing State structures and a situation in which one or more ethnic groups are discriminated against or feel that they are discriminated against. (Attention has

been drawn to this explosive combination in particular by François Thual.⁵ In comments very useful for conflict analysis, the British historian Eric Hobsbawm⁶ has noted that, regarding conflicts aimed at asserting group identity, attention should be paid to the extent to which tensions are exacerbated and exploited “from above” or spontaneously develop “from below”. The causal relationship between poverty and war must be viewed both ways. In other words, armed conflict is also a leading cause of poverty and other misery.);

- the trend toward polarization and radicalization along various fault lines, combined with a corresponding weakening — or total absence — of willingness to resist violence;
- the unprecedented scale of terrorism, which can — as we saw in Afghanistan in October 2001 — lead to an unprecedented level of response to it;
- the experience of war, which itself can lead to future wars, above all when these conflicts are waged with absolute disregard for the international rules of warfare.

Though it sounds self-evident, the point should nevertheless be made that the outbreak of armed conflict generally requires a combination of causes. And it is essential to distinguish between major and minor causes and between real and pretended causes.

Devaluation of international humanitarian law

In view of these observations and anticipated developments, it is unlikely that the significance of non-State parties to conflicts will diminish in the foreseeable future. Since globalization and the accompanying deregulation have moreover enhanced the standing and the capacity for action of non-State protagonists, it is also unlikely that a phenomenon observed in connection with the so-called “new” conflicts will soon come to an end. I refer here to the widespread devaluation of the rules of the international law of war and the total lack of restraint of many parties to conflict, especially vis-à-vis the civilian population, which is more and more frequently the real target. In various places one of the cornerstones of international humanitarian law, namely the distinction between combatants and civilians, is being eroded. The utter disregard for this law by certain non-governmen-

⁵ François Thual, *Les conflits identitaires*, Ellipses, Paris, 1995.

⁶ Eric Hobsbawm, *The New Century*, Abacus, London, 2000.

tal armed groups and attempts to qualify some rules in the context of combating terrorism are new challenges for the ICRC. It is confronted with new types of belligerents and new forms of warfare.⁷

It is in such a setting that the ICRC now does most of its work. In many places it can no longer rely on a high degree of willingness to comply with the rules of international humanitarian law, or assume that the organization and its working principles will be known and respected. In many conflict areas, we would also be ill-advised to assume that we could count on being trusted in advance for our independence, impartiality and neutrality. All too often, trust in these principles of the ICRC will first have to be won through consistent and thus predictable behaviour, as well as through tirelessly explaining what we are doing. This observation is also of relevance here.

The ICRC's different legal bases

The fact that internal conflicts are now the rule has yet another consequence. The legal basis for ICRC activities in international humanitarian law carries far more weight in conflicts between States than it does in internal ones, where concerns over sovereignty are particularly strong. States that have ratified the relevant legal instruments are obliged in international conflicts to allow visits by the ICRC to persons detained in connection with the conflict, such as prisoners of war or civilian internees in Iraq.⁸ The same legal obligation does not apply in internal armed conflicts, like that in Sudan.⁹ In such cases, it is necessary to negotiate agreements which are usually temporary and can be terminated. States will consent to these and other agreements only if they are sure that the ICRC will not make public the information it acquires in the course of its humanitarian activity or its ensuing requests but will only discuss matters in confidence with the competent authorities. After all, allowing an organization to visit prisoners regularly and to talk to them in private is no small curtailment of the sovereignty of a State.

⁷ The ICRC responded to these tendencies in the report on international humanitarian law and the challenges of contemporary armed conflicts that it presented at the 28th International Conference of the Red Cross and Red Crescent: ICRC, "International humanitarian law and the challenges of contemporary armed conflicts", *International Review of the Red Cross*, Vol. 86, No. 853, March 2004, pp. 213-244.

⁸ Article 126 of the Third Geneva Convention relative to the Treatment of Prisoners of War, and Article 143 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

⁹ Article 3 common to all four Geneva Conventions gives the ICRC the right to take the initiative in non-international armed conflicts, in that it may offer its services to the warring parties. For situations other than armed conflicts — in internal disturbances, for example — only the Statutes of the International Red Cross and Red Crescent Movement (Article 5) provide for a similar humanitarian right of initiative.

Handling knowledge

Given the environment in which it works and the way in which it operates, the ICRC knows a lot. It acquires this knowledge above all through its humanitarian activity and uses it exclusively for that activity. As this knowledge is often sensitive, politically delicate and capable of being used for various ends, there is a serious risk of ill-considered words embroiling the organization in political polemics. The international position which the ICRC enjoys and the sparing use it makes of public appeals and statements lend it considerable weight. The fact that it refrains from making public statements and appeals, even where there is a precedent of a statement having been made in comparable circumstances but in a different place, does not go unnoticed either.

For this reason, whether to speak out publicly or remain silent in its humanitarian work is a major issue for the ICRC. The importance of speaking out or, more importantly still, of issuing public statements, is sometimes overestimated, sometimes underestimated. The age in which we live — loquacious as it is, swift to pass judgment and ever ready to express an opinion — tends to overestimate the impact of speaking out.

Tension between action and testimony

The ICRC's position with regard to public statements and appeals is often controversial and has sometimes given rise to fierce debate. The best-known example dates back to the autumn of 1942 when the ICRC refrained from making a public appeal for the protection of the civilian population. The ICRC was harshly criticized for this, especially by Jewish organizations. The critics attached little importance to its fear at the time that such an appeal could lead to a loss of access to some two million Allied prisoners of war whom the ICRC was then assisting. Nor did they attach much weight to the doubts, which played a part in its decision, that such an appeal would improve in any way the situation of the civilian population and particularly the inmates of the concentration camps. In 1988, commenting on Jean-Claude Favez' book,¹⁰ the ICRC reaffirmed its doubts as to the effectiveness that such an appeal would have had.¹¹

¹⁰ Jean-Claude Favez, *The Red Cross and the Holocaust*, Cambridge University Press, Cambridge, 1999.

¹¹ Jean-Claude Favez, *Une mission impossible? Le CICR, les déportations et les camps de concentration nazis*, Éditions Payot, Lausanne, 1988, p. 378.

Some commentators, fully aware of the tension between the determination to act in a humanitarian manner and the desire to testify in public, saw the silence of the ICRC at that time as a turning point in the history of the organization: “Pour préserver cette activité d’assistance, la Croix-Rouge prend la désastreuse décision de ne pas témoigner de ce qu’elle sait sur les camps d’extermination”.¹²

Yet in face of this genuine dilemma far less assiduity is shown in examining the question of what — apart from taking an admittedly important moral stand — can be expected from public appeals under certain circumstances and in considering what effect they might have on existing humanitarian activity.

The important issue to realize both now and in the future, particularly for a humanitarian organization in the ICRC’s position, is that decisions on whether to speak out or remain silent can have far-reaching consequences, not only in terms of whether the ICRC can carry on with its humanitarian activities but also for its image and the way in which it is perceived. For certain groups, those decisions can weigh more heavily than what a humanitarian organization does.

Restraint in making public statements

When it comes to public statements, the ICRC continues to be regarded as relatively discreet or at least reserved, as it undoubtedly is in comparison with other organizations. However, comparisons can be misleading, given the different tasks and activities of different organizations. This perception of the ICRC may come as a surprise in view, for example, of the many public statements and appeals made by the organization during the Balkan wars. The public was left in no doubt about what was going on, as the following two examples will show.

In a public appeal to the warring parties in Bosnia-Herzegovina in August 1992, the ICRC denounced the detention and inhumane treatment of innocent civilians and called on the parties to take a series of measures, and in particular to comply with the terms of the Third and Fourth Geneva Conventions.¹³ A description of the desperate plight of the civilian popula-

¹² Jean-Christophe Rufin, *L’aventure humanitaire*, Gallimard, Évreux, 1994, p. 71. (“To preserve this assistance activity, the Red Cross took the disastrous decision not to state what it knew of the extermination camps.”)

¹³ “The ICRC and the conflict in former Yugoslavia”, *International Review of the Red Cross*, Vol. 74, No. 290, September/October 1992, pp. 488-493.

tion was also the focal point of an appeal to the belligerents in June 1995 to reach a humanitarian consensus by taking concrete individual measures, such as helping to restore the water supply in Sarajevo and the surrounding area.

The second example is the ICRC's public statement on the Kosovo crisis in September 1998,¹⁴ in which it drew attention to the critical situation of the civilian population and emphasized that responsibility for ensuring the safety of and respect for the civilian population lay with the Serbian authorities. It urged the Albanian representatives and the UCK to do their utmost to put an end to the killings.

Why cite these particular examples? Because they show that the ICRC does not refrain from public comment, but does avoid one-sided or at least too explicit condemnations of individual parties to conflict. While this approach is sometimes criticized, it clearly reflects the ICRC's overriding concern that the possibility to provide humanitarian aid must not be jeopardized by public declarations. Though I am not saying that they are bound to have that effect, the likelihood is enough to proceed with caution.

More generally speaking, it is important that the ICRC should play its part in providing public information on the sufferings of the population in war zones and the complexities of today's conflicts. There is plenty of scope for giving information without breaching the confidentiality indispensable for the ICRC's activities and without joining in the rush to pass judgment.

Top priority: access to the victims

The organization is criticized for giving absolute priority to carrying out its humanitarian task rather than providing the public with as much information as possible, all the more so as people realize that ICRC staff would have a lot to tell. Our staff are confronted daily with violations of international humanitarian law, in some cases very serious ones, and they know the conditions in the most remote prisons, prisoner-of-war camps and internment centres. Few organizations have such comprehensive inside knowledge of the real situation, the real conditions in war zones and areas of tension. As we have already seen, it is not for the ICRC to make one-sided condemnations. In an age when people are quick to pass judgment and histrionic expressions of concern and condemnation are highly rated regardless of their actual impact on conditions, this reticence may alienate some or disturb others because it does not fit in with widely held expectations. What

¹⁴ Public statement by the ICRC on the situation in Kosovo, published in the *International Review of the Red Cross*, Vol. 325, December 1998, pp. 725-728.

characterizes the ICRC is not so much an excessive discretion as a refusal to pass judgment publicly and to make one-side condemnations.

Nevertheless, the reluctance of the ICRC to make public pronouncements is undeniable. The reason for this reserve is twofold: it does not want to risk losing its access to the victims of conflict by doing so, and it has reservations about the extent to which public declarations can mobilize opinion. Incidentally, the restraint that the ICRC imposed on its staff in dealing with the public during the Biafra war was one of the reasons that led Bernard Kouchner — an ICRC staff member at the time — to help found *Médecins sans Frontières* in 1971. He felt that the “old lady”, as the ICRC was then familiarly known in MSF circles, called for too much restraint and placed too many restrictions on the spontaneous expression of opinions.

The utmost caution always needs to be observed in the use of words. Indeed, the very decision whether to engage in public debate — and if so, where and when — has to be taken carefully. The German philosopher Hans-Georg Gadamer, when speaking about language and conversation, took the view that we ourselves do not so much make conversation as we are drawn into and get caught up in it.¹⁵

Over and above our own intentions, language and context determine what remains of what we have said. For a humanitarian organization like the ICRC, which is almost always working in contexts ranging from the emotional to the irrational, this too is an important consideration. We must not only be clear about what we want to say or not say, but must also consider carefully when and where we should get involved in public debate.

Subsidiary nature of public appeals

Perhaps nothing better illuminates the relationship of the ICRC to public statements and to public denunciations of breaches of international humanitarian law than the fact that, as a rule, the organization resorts to such means only when its confidential approaches remain fruitless and it comes to the conclusion that it can make no further meaningful contribution to the protection and support of the victims of the conflict.¹⁶ Public denunciation is a second- or third-best alternative. To put it another way: as a rule, this step will be taken only when the ICRC concludes that a public

¹⁵ Hans-Georg Gadamer, *Wahrheit und Methode*, Crossroad, New York, 1990.

¹⁶ “Action by the International Committee of the Red Cross in the event of breaches of international humanitarian law”, *International Review of the Red Cross*, Vol. 221, March-April, 1981, pp. 76-83.

denunciation or public appeal will do more for the victims of a conflict than its work in the field. In assessing the implications of this comment, it should also be borne in mind that the ICRC's experience of the mobilizing effect of public appeals has not necessarily been convincing, although admittedly their effect cannot be verified in detail.

It would be hard to conceive of a more dramatic and urgent public appeal to the international community than that of 28 April 1994, some three weeks after the start of the genocide in Rwanda which then continued for three months. The ICRC called on the governments concerned to take all possible measures to put an immediate end to the massacres. In order to save its own delegates in Rwanda from almost certain death, the ICRC did not initially use the term "genocide". However, the circumlocutions employed — "systematic carnage", "the extermination of a large part of the civilian population" — left no room for doubt about what was going on. And for anyone who might still be plagued by doubts, the situation was clarified in numerous press releases issued during April using such terms as "chaos", "carnage", "massacre", "human tragedy", etc.¹⁷ But for all their clarity, these public statements did not result in the rapid international reaction that was desired. It was not until 22 June that the UN Security Council gave France the green light to carry out a humanitarian operation during the two-month period until implementation of the resolution of 17 May raising the number of staff of the UN Assistance Mission for Rwanda (UNAMIR) to 5,500.¹⁸

The point of this example is not to denounce the slow response of the international community but to remind those who advocate a quick public indictment that people may often be content with just that. I say this in full knowledge of the enormous importance currently placed on "highlighting". The problem is simply that this generally amounts to nothing more than calling on someone else to do something. The victims, however, need actual help and actual protection. In making this point, I do not underestimate the very great importance of lending a voice to those who have no rights and who would not otherwise be heard. The position of the ICRC with regard to public comment is understandable only to those who know that access to all victims of armed conflict has higher priority for it than anything else except security considerations. And when it sets a priority, there are no half measures.

¹⁷ For a detailed account of the ICRC's activities in Rwanda in 1994, see <<http://www.cicr.org/Web/fre/sitefreo.nsf/html/rwanda>> (last visited on 17 July 2004).

¹⁸ UN Security Council resolution No. 929 of 22 June 1994.

The ICRC also strives to maintain a reasonable balance between the responsibility it accepts and its own capacity for action. If I may paraphrase a remark by Enzensberger, the ICRC does not wish to swell the ranks of those who shirk their responsibilities by setting moral requirements — for itself and others — that bear no relation to any real capacity for action.¹⁹ In a world in which virtually every activity — including talking — must be exploitable for a wide variety of purposes, including entertainment, laying down priorities can seem strongly dogmatic, even though it is self-evident from the victims' point of view. The ICRC does not see itself as the moral conscience of mankind and knows that it cannot prevent armed conflicts. What it absolutely does want is to do everything in its power to help the victims of conflict and to desist from everything that could jeopardize access to them. In a way, it may be seen as standing in defence of minimum civilized standards under difficult conditions. The merits or demerits of public comment must be measured by this setting of priorities.

Two things must not be forgotten: “speaking out publicly” or “remaining silent” are both actions highly relevant to the security of ICRC staff. Moreover, there is plenty of scope for public comment that does not in any way jeopardize the conduct of humanitarian activity, for instance the many occasions to spread knowledge of international humanitarian law and to make new proposals for its further development. In Colombia alone, the ICRC has conducted 1,340 seminars and meetings attended by almost 60,000 participants from governmental and non-governmental organizations.

Openness and confidentiality

So far, all of my references have been to public comment. However, public comment is certainly not the only or necessarily the most effective form of comment. ICRC staff frequently do speak out very plainly. When they come across violations of international humanitarian law, they take the matter up with the warring parties, and often with commanders of forces in very remote areas, to explain the law applicable and demand compliance. That takes guts. The personal risk in doing so is far greater than in publishing indictments far away from the conflict zone.

Furthermore, prison reports, which are confidential, contain ICRC recommendations on ways to improve conditions of detention. These recommendations are discussed with the competent authorities. During their

¹⁹ Hans Magnus Enzensberger, *Civil War*, London 1994.

next visit to the prisoners, ICRC delegates check to see which recommendations have been implemented. Reports on the conduct of hostilities and assessing the extent to which the civilian population is protected in military operations are drawn up and presented to the warring parties. In other words, it is important to realize that the reticence of the ICRC in public does not mean that it says nothing about what it sees and does not speak out in order to improve conditions. In the end, it places more trust in confidential persuasion than in the effects of public denunciations.

The ICRC also prefers to adopt a confidential approach when conditions in places of detention or in conflict areas constitute a violation of international humanitarian law. Only when repeated confidential approaches fail to put an end to those conditions, or at least to improve them, does the ICRC consider going public. However, it takes that decision only once it is convinced that going public will help the people concerned. In practice this is generally a step-by-step procedure during which everything possible is done in the field and at headquarters to improve the humanitarian situation. Above all, care must be taken not to weaken the position of the field personnel in charge by bypassing one or more phases in our intervention. A comparison of the ICRC's public statements on Guantánamo in February 2002, May 2003 and January 2004 provides an example of this approach.²⁰ Before the ICRC goes public, it naturally assesses the actual improvements that can be anticipated from doing so. The generally meagre outcome of public protests, expressions of consternation and condemnatory gestures also has to be considered.

Given everything that ICRC delegates see and experience, it often requires a great effort for them not to give free rein to their sense of outrage. Describing to the public — often with distinct emotional overtones — the dreadful conditions in prison X in country A may satisfy those among the population who are avid for news, and the denunciation may improve the victims' situation, at least in the short term. However, further access may subsequently be refused and hardly anyone will then wonder what awaits security prisoners when they are no longer visited. Moreover, the decision to go public cannot be taken in response to one specific situation; consideration must also be given to its possible impact in other contexts. By going public about the conditions in country A are we denying ourselves access to the victims in country B or C?

²⁰ See Press releases No. 02/11 of 9 February 2002, No. 03/36 of 28 May 2003 and No. 04/03 of 16 January 2004.

Maintaining confidentiality often requires considerable discipline and a degree of humility in an environment in which a little knowledge is relatively often outweighed by a great desire to name and shame. It was, for example, very tempting to reply to comments that confidential approaches had done nothing to remedy conditions in the Iraqi prisons by spelling out the improvements that the ICRC delegates had observed after their visits to the notorious Abu Ghraib prison near Baghdad.²¹ Whatever is said in retrospect, I have no doubt that the improvements, which were made long before the appalling photos of prisoners being subjected to inhumane and humiliating treatment were published, were attributable partly — if not largely — to the ICRC's forthright demands.

The ICRC and the media

Some people may believe that changes are brought about more effectively today — particularly in open democratic societies — if the lever of publicity is used. They argue that the world in which we live is largely shaped by the media, and that the ICRC, too, should therefore adopt a different approach to its operations and its communication work than in the past.

Of course, the ICRC's communication strategy has to take the level of media attention being given to a particular scene of conflict into account. However, the ICRC usually works far beyond the reach of the media spotlight in all war zones and without regard for the intensity of media coverage. Its primary obligation is to the victims of violence. The report that was leaked to the press shows that prisoners felt they could trust their conversations in private with the ICRC representatives, and that while in prison they were able to talk about their inhumane treatment. It also shows that the ICRC was outspoken in its endeavours to improve the situation. Confidentiality is not the same as inactivity or complicity.

It is a moot question whether a public denunciation by the ICRC of the conditions in Iraqi prisons would have had the same or a similar effect as the worldwide publication of those photos. The crucial factor is that the ICRC considers that — both in the longer term and in specific cases — its

²¹ The *Wall Street Journal* of 7 May 2004 quoted lengthy excerpts from a confidential report dated January 2004 on the conditions in prisons in Iraq visited by the ICRC, which had been handed to the Coalition forces in February 2004. The report was published without the ICRC's consent. It is marked as confidential and intended only for the authorities to which it was given, and attention is expressly drawn to the fact that it may not be published in part or in its entirety without the ICRC's consent. The compiling and submission of a report is part of the ICRC's standard procedure for prison visits worldwide.

tried and tested procedure for prison visits is effective and beneficial for victims the world over, including the confidential nature of its reports. This is also its firm and unqualified opinion with regard to the prisoners in Iraq.

The relationship between the ICRC and the media is much closer and more complex than might be thought from what has been said. Their representatives are often working in the same environment and the ICRC has a genuine interest in media coverage of armed conflicts, which also serves as a reminder of many conflicts otherwise forgotten. For instance, during the first month of the genocide in Rwanda the ICRC enabled a dozen journalists to reach Kigali, though they left again two days later.

Alerting the media to the conditions in war zones and general humanitarian concerns, such as establishing responsibility for the removal of unexploded ordnance, is of operational importance for the ICRC. Where States have no clearly definable or recognizable strategic interests at stake, only by mobilizing public opinion can governments be persuaded to act. There the media play a decisive role. Moreover, anyone who followed the ICRC's public statements on the sensitive issues in the first half of 2004 will know that the ICRC remains less silent in public than insinuations or accusations often imply.

Careful consideration essential

It might be thought that there are no problems attached to the principle of restraint in making public statements and appeals. Here a few questions remain that I would not wish to avoid. Does not extreme restraint in publicly denouncing serious violations and allocating blame ultimately tend to favour the perpetrators? At times there is even talk of complicity with the oppressors. Cannot a more durable and widespread improvement in the living conditions of a suffering population be achieved by public statements or denunciations and the action they trigger than by keeping silent in public to facilitate the provision of humanitarian aid? Above all, how certain is it that a bolder and more challenging approach in public will lead to the ICRC being kicked out of a country in which it is carrying out humanitarian activities?

It is not certain that the ICRC would be forced to leave, and in any case each conflict area has to be assessed individually. Yet the likelihood of humanitarian work being seriously impaired is great enough to necessitate a clear idea of the probable consequences before going public. There will, however, always be situations in which there is no alternative but to speak out boldly. In view of the potential consequences, that is one of the hardest decisions of all to take.

A large-scale public condemnation can set a development in motion that is more advantageous in the long term than humanitarian aid in an unfavourable and unchanging socio-political environment. While I do not believe that humanitarian aid prolongs wars, it may indirectly delay the advent of peace and reforms if it prevents the sort of drastic deterioration which alone would induce the international community or forces within the country itself to take decisive action. Nevertheless, I have serious doubts that a public condemnation would elicit this response. It is much more likely to have little or no impact while simultaneously leaving many people suddenly deprived of the help of a humanitarian organization.

The absolute priority of maintaining access to the victims can admittedly have the side-effect of leaving a country's warlords or oppressors with a less negative international public image than they deserve. But this is not such a dilemma as it seems: there are nowadays many organizations that concentrate on the public denunciation of abuses and, as they are not involved in any humanitarian activity in the countries concerned, they have no worries about being expelled. These advocacy organizations are playing a very important part. Since there is no shortage of them, there is no need for the ICRC to establish new priorities.

Such is the nature of the ICRC's work that the circumstances in which it speaks out or remains silent are always exceptional. In the emotional and irrational environment of conflict, every word, depending on the party and point of view, has its own significance and resonance. For an organization like the ICRC, it is essential to be acutely sensitive to words and their resonance, determined by past and present associations which are not always readily apparent. In conflict situations, the meaning and impact of words really make themselves felt.

There is no universally applicable recipe for when it is appropriate to speak out publicly or remain silent. Each time, before deciding, the actual situation will have to be carefully considered. The ICRC certainly has no cause to underestimate the importance of public communication. While it cannot, for the various reasons above, give in to the current desire for hasty judgments and sweeping condemnations, it must and will make resolute use of the public arena to tell of the plight of people in many parts of the world, explain complex and obscure conflict situations and promote fundamental humanitarian concerns. Though aware that instant condemnation is in greater demand, we must follow that course undeterred.

Consistency and predictability

In view of the serious consequences it may have, the decision to speak out publicly or remain silent is particularly difficult in an organization such as the ICRC. It must never lose sight of its basic mandate, whatever the pressure of public or other opinion. It must, however, have a keen sense of when to raise its voice. Whether it has had this sense of timing is ultimately shown by whether going public has improved the situation of the people it sought to protect. That is not easy to judge. The impact of a public statement on the specific situation referred to may be relatively straightforward to assess — but that is not true of other areas in which it works. In the case of an organization like the ICRC, the effects of public comment have to be assessed from a global perspective. An organization whose delegates visited 470,000 detainees in more than 1,900 places of detention in some 80 countries last year²² has to consider what public condemnation of prison conditions in country A means in terms of its access to prisons in countries B and C.

Now and again people come up with misleading “alternatives”, such as that of “either discretion or efficiency”. Yet the very purpose of discretion is to enhance the efficiency of humanitarian activity — with a worldwide and not only a local ambition. If it fails to do that, it needs to be thoroughly reviewed. I set great store by consistency in the ICRC’s public statements. If a decision to go public is taken in one place, the same step must be taken in comparable conditions somewhere else, even if the consequences for the organization’s activity are different. Consistency and predictability are valuable assets. Being consistent in public comment and in public silence is a fundamental prerequisite for the ICRC’s credibility.

²² See ICRC *Annual Report 2003*, ICRC, Geneva, 2004, p. 42.

Résumé:

Action humanitaire: parler ou se taire?

Jakob Kellenberger

La position du CICR sur les déclarations et les appels publics est souvent controversée et a parfois donné lieu à des débats passionnés. Dans cet article, le président du CICR décrit la manière dont l'institution agit dans un monde complexe de tensions entre, d'une part, l'action et les préoccupations humanitaires et, d'autre part, la dénonciation de violations du droit international humanitaire et le témoignage dans l'espace public. Il met en évidence l'engagement inconditionnel du CICR à rester proche des victimes des conflits armés et à entretenir un dialogue constructif avec les autorités pour protéger et aider les victimes. Toutes les autres considérations – hormis la sécurité – passent donc impérativement après cet objectif. L'institution préfère adopter une approche confidentielle, même lorsque la situation observée dans des lieux de détention ou des zones de conflit constitue une violation du droit humanitaire. Si ses démarches confidentielles répétées ne font pas cesser les violations, ou tout au moins n'améliorent pas la situation, c'est alors seulement que le CICR envisage d'alerter l'opinion publique, s'il considère qu'il est dans l'intérêt des personnes concernées. On reproche parfois au CICR de donner la priorité absolue à sa mission humanitaire au lieu de fournir au public le plus d'informations possible. L'auteur fait valoir que le but même de la discrétion est d'avoir, à l'échelon mondial, un accès aux victimes aussi large que possible. Si cette façon de procéder ne devait pas aboutir, elle devrait alors être réexaminée radicalement. Enfin, M. Kellenberger met l'accent sur la nécessité pour le CICR d'être conséquent et fidèle à ce qu'on attend de lui dans ses déclarations publiques, afin de renforcer la crédibilité de l'institution.